

U.S. Pat. App. Ser. No. 10/532,414
Attorney Docket No. 10191/3791
Reply to Office Action of August 18, 2008

REMARKS

Claims 14 and 22 are canceled without prejudice, and therefore claims 9 to 13 and 15 to 21 are now pending and being considered.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for indicating that claim 22 contains allowable subject matter. While the rejection of the base claim may not be agreed with, to facilitate matters, claims 14 and 22 are canceled without prejudice, since the features of claim 22 have been included in claim 9. Accordingly, claim 9 is allowable, as are its dependent claims 10 to 13 and 15 to 21. It is therefore respectfully requested that the objection to claim 22 be withdrawn.

Claims 9 to 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Oswald et al., U.S. Patent No. 6,907,335 in view of Jager et al., U.S. Patent No. 6,834,221.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

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While the rejections may not be agreed with, to facilitate matters, claims 14 and 22 are canceled without prejudice, since the features of allowable claim 22 have been included in claim 9.

Accordingly, claim 9 is allowable, as are its dependent claims 10 to 13 and 15 to 21. It is therefore respectfully requested that the rejections to the claims be withdrawn.

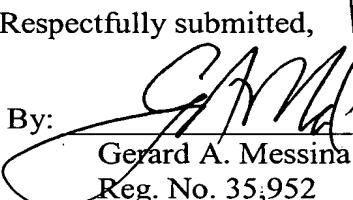
It is therefore respectfully submitted that claims 9 to 22 are allowable.

Conclusion

It is therefore respectfully submitted that all of pending and considered claims 9 to 22 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.

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Respectfully submitted,

By: 
Gerard A. Messina
Reg. No. 35,952

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646

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